

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
September 10, 2018

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Monday, September 10, 2018, in the fourth-floor conference room of Veraview LLC, located at 610 Main St, Buffalo, NY. The meeting was called to order at 1:05 P.M.

Board Members Present

Chair R. Nils Olsen (via video)
Interim Vice-Chair Jeanette T. Jurasek
Secretary George K. Arthur
Mayor Byron W. Brown (proxy Estrich)
Director Frederick G. Floss
Director Dottie Gallagher
County Executive Mark C. Poloncarz (proxy Cornell)

Board Member(s) Excused

None

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Liaison Bryce E. Link
Senior Financial Analyst II/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita M. Fortune

Additionally Present

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP
Mr. Gillian Brown, Interim Executive Director, Buffalo Municipal Housing Authority
Mr. Modesto Candelario, Assistant Executive Director, Buffalo Municipal Housing Authority
Mr. Geoffrey Pritchard, Chief Financial Officer, Buffalo City School District
Mr. Nathaniel J. Kuzma, General Counsel, Buffalo City School District

Opening Remarks

Interim Vice-Chair Jurasek served as Chair Pro Tempore for the Special Meeting of the Board. She welcomed and thanked all that were in attendance, reviewed the logistics of the meeting and the agenda. The agenda included the review of two proposed labor contracts:

1. The Buffalo Municipal Housing Authority (“BMHA”) and the American Federation of State, County and Municipal Employees (“AFSCME”) Local 264 (“Local 264”);
2. The Buffalo City School District (“BCSD”) and the Transportation Aides of Buffalo (“Bus Aides”).

Roll Call of the Directors

Secretary Arthur called the roll. A quorum being present, the meeting commenced.

City of Buffalo Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSa Act.

Erie County Budget Analyst, Mr. Mark Cornell represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSa Act.

Subdivision 1 of §3853 of the BFSa Act reads: "...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City [of Buffalo] or County [of Erie], shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the signal designee...."

Buffalo Municipal Housing Authority

Collective Bargaining Agreement with Local 264

Interim Vice-Chair Jurasek stated the BMHA submitted a tentative Memorandum of Agreement ("MOA") between the BMHA and Local 264 in addition to a draft modified four-year financial plan for BFSa review. BFSa Executive Director Jeanette M. Robe and Senior Analyst II Nathan D. Miller were asked to present the staff's analysis to the Board.

Ms. Robe stated the BMHA settled a tentative labor agreement in August 2018 with Local 264 and submitted the document to BFSa for review. BMHA subsequently submitted their financial impact analysis and a draft modified four-year financial plan to be considered by the BMHA Board of Commissioners at the BMHA's next meeting. The major change of the contract is that employees hired after its ratification will not receive health benefits at retirement. BMHA management estimated other post-employment benefit ("OPEB") to be just under \$283,000 annually per employee and a future cost savings of \$2.8M per year for each ten new hires as the modified financial plan assumes an annual attrition rate of ten employees.

Interim Vice-Chair Jurasek asked if the anticipated attrition rate would be due to a reduction in staff. Ms. Robe stated the employment count is expected to remain the same; however, there is anticipated to be ten fewer employees covered under the old contract per year due to retirements and subsequent new hires; the budgeted staffing level remains flat.

Mr. Miller began his presentation. The previous Local 264 CBA expired on June 30, 2011. The tentative contract was agreed upon by the appropriate parties and will expire June 30, 2023. The BMHA Board of Commissioners is expected to review the agreement at their next meeting on September 13, 2018, taking the BFSa's comments under advisement. The contract is then expected to be reviewed by the Buffalo Common Council on September 18, 2018.

Summary of key contract changes:

➤ Salary increase:

- 10% increase effective 7/1/17
- 2% increase effective 7/1/18
- One-time bonus of \$1500 effective 9/21/18
- 2% increases effective 7/1/19, 7/1/20, 7/1/21 and 7/1/22

The rate of increase in salary is 3.4% over the life of the contract.

Mr. Miller stated the 2018-19 draft modified budget reflected a decrease of nine budgeted positions. The 2018-19 adopted budget had 166 budgeted positions, 129 of which were filled as of 8/31/18. The 2019-2022 modified budget maintains staffing at 157 positions. The nine positions had not been filled and therefore no layoffs are necessary. Ms. Robe stated the remaining 157 positions is held consistent throughout the remaining years of the financial plan.

Mr. Miller stated the estimated net cost cash impact of the contract to the financial plan is \$7.7M. Director Floss asked for clarification in the \$45,000 total estimated cost decrease between 2017 and 2018. Director Gallagher-Cohen asked for clarification why the estimated 2019-20 net cost was lower than the prior fiscal year's estimated net cost. Mr. Miller explained that the July 1, 2017 estimated net cost utilized actual 2017-18 employee count to calculate the salary increase while the July 1, 2018 estimate was based on budgeted employee compensation. Additionally, the 2018-19 net cost is higher than the 2019-20 net cost as this fiscal year included a one-time payment of \$1,500 per eligible employee.

Ms. Estrich asked if the vacancies will be filled for 2018. BMHA Interim Executive Director Gillian Brown responded in the affirmative although it was unclear which positions will be filled.

Mr. Miller stated the net cost of the contract would be \$7.7M which is driven by the increase in total employee compensation.

Mr. Miller stated the following impact on the revised 2019-2022 Financial Plan:

- Revenues increase \$1.9M over the four years;
- Operating expenses increase \$1.8M over four years;
- Net operating loss of \$2.1M over four years.

Director Gallagher expressed her concern with supporting a MOA which leaves the net operating loss essentially unchanged while generously allowing for 10% increase, a one-time bonus, and 2% increase per year. She noted that salary increases at this rate would be considered excessive in the private sector. Ms. Estrich noted if the parties went to arbitration Local 264 may have been awarded more and therefore the savings should be acknowledged.

Director Gallagher asked how the projected net losses were addressed within the financial plan. Mr. Miller stated that the Financial Plan was adopted with the use of reserves in each fiscal year to eliminate projected budgetary deficits.

Mr. Miller continued with his presentation.

Health insurance terms for active employees:

- Employees hired prior to December 9, 2009 contribute 0% for POS 204;
- Employees hired after December 9, 2009 contribute 15% for POS 204;
- BMHA may self-fund its medical coverage and shall not be required to submit a cost-sharing proposal.

Director Gallagher asked what percentage of employees were hired prior to December 9, 2009. Mr. Miller replied that 95 of the 157 employees, approximately 60%, were hired prior to December 9, 2009.

The tentative MOA affords BMHA the ability to change to a self-funding health insurance model. Director Floss stated his concern with the risk factors of BMHA self-funding health insurance as it is such a small population. Ms. Estrich stated BURA faced the same dilemma and remained fully-insured due to the low number of employees and the high risk involved with being self-insured.

Health insurance terms for retirees:

- Employees hired prior to December 9, 2009 will have the same plan they had as active employees:
 - Less than 10 years of service requires 10% employee contribution;
 - More than 10 years of service requires 0% employee contribution;
- Employees hired after December 9, 2009 will have the same plan as they had as active employees:
 - Less than 15 years of service requires 25% employee contribution;
 - More than 15 years of service requires 15% employee contribution;
- Employees who were hired before December 9, 2009 and retire by June 30, 2018 with a minimum of 10 years of BMHA service had the option to enroll in the POS 201 plan upon retirement at no cost;
- Current employees need a minimum of 6 months of BMHA service and be vested in NYSERS to be entitled to health insurance at retirement;
- Employees hired after final ratification of the agreement shall not be eligible for medical benefits at retirement.

Ms. Estrich asked if service credit is given from other City of Buffalo agencies. Ms. Robe responded in the affirmative and noted that this option is being phased out as new hires will not be eligible for health insurance upon retirement.

Mr. Miller stated the residency requirement is unchanged in that employees must reside within the City for 15 years. Those living outside of the City must pay the City's average real estate tax fee of approximately \$1,200.

Conclusions & Recommendations:

- BFSA staff reviewed the BMHA's increased revenue and expense projections in the Revised Financial Plan and believe them to be reasonably estimated;
- Deficits are projected in all four years of the Revised Financial Plan;
- BMHA indicated that operating reserves would be appropriated as needed to reduce projected deficits which would leave BMHA with an estimated \$0.9M in operating reserves as of June 30, 2022;
- The use of operating reserves to close budgetary gaps is not a sustainable practice as reserves are not a revenue source;
- BFSA recommends that BMHA examine areas of savings through new efficiencies and cost reductions to balance budgetary gaps.

Ms. Robe reviewed the changes in management rights:

- Discontinuation of summer hours which was replaced with an additional personal day;
- Discontinuation of 15-minute cleanup time for blue-collar workers;
- Discontinuation of an automatic minimum payout of four hours of overtime regardless of time worked. This change ensures workers stay on the job site for a minimum of two hours to receive four hours of pay;
- Housing managers are required to attend a maximum of 4 meetings per month;
- Auto allowance remains at \$225 per month for housing managers. If the employee is absent for ten or more consecutive days the amount is prorated downward.

Interim Vice-Chair Jurasek confirmed that positions have been reduced over the past two years although staffing is expected to stay flat over the current Financial Plan.

Director Gallagher expressed her concern beyond the four-year plan as positions will already have been cut and a majority of BMHA reserves used.

Mr. Candelario stated that the BMHA has historically ended fiscal years with budgetary surpluses and is hopeful to stay below estimated reserve use by increasing revenues through increased rental occupancy and containing costs.

Director Gallagher stated the budget is unsound in the fifth year as BMHA will have less than \$1.0M in reserves with a \$45.0M operating budget.

Ms. Estrich asked what other revenue sources BMHA has besides block grant or HUD funds. Mr. Brown stated rent is the only other source of income which increases with occupancy and has been a continuing issue. Director Gallagher questioned the constraints on management to operate in a more efficient way to improve turnover and therefore increase occupancy.

Secretary Arthur asked how long it currently takes to turnover a unit and what the turnover goal was. Mr. Candelario responded BMHA is currently turning units around in 60 days and the goal is to turn units around for new tenants in 30 days. Mr. Brown stated BMHA is working to establish a vacant apartment preparation crew which would require less outsourcing and more efficient use of current resources.

Ms. Estrich stated the City Administration prefers a City of Buffalo residency requirement in the next contract.

Interim Vice-Chair Jurasek asked what the anticipated rental income is as compared to the expected increase in occupancy. Mr. Candelario stated the administration expects to raise rental income by \$700,000 if all developments, excluding the uninhabitable portions of Perry and A.D. Price, reach 98% occupancy rate. This additional funding mechanism was not included in the revised Financial Plan.

Director Floss made a motion to accept the contract as presented. Secretary Arthur seconded the motion.

Director Gallagher amended the motion to request BMHA submit a biannual report on occupancy and revenue along with measures taken and related outcomes.

The Board voted 7-0 to approve the motion.

Director Floss exited the meeting at 1:51 P.M.

Buffalo City School District ("BCSD")

Collective Bargaining Agreement with Transportation Bus Aides of Buffalo

Interim Vice-Chair Jurasek advanced the agenda to review the MOA submitted by the District with the Transportation Aides of Buffalo and turned the floor over to Mr. Miller to review the analysis of the MOA.

Mr. Miller began his presentation stating the labor agreement expired on June 30, 2018 and the proposed MOA would be effective July 1, 2018 through June 30, 2021 and would cover approximately 451 part-time bus aides. After the BFSA review, the MOA will be considered at the next Board of Education meeting on September 19, 2018.

Mr. Miller provided the following summary of changed terms:

- Monday following final ratification employees will receive an increase of \$.50 per hour, an effective rate of increase of 3.7%;
- Not everyone is required to be a member of the Union;
- Summer bus aide positions shall only be staffed by Union members;
- City of Buffalo residency requirement does not apply to new hires.

It was noted BCSD has not adopted the City of Buffalo's Living Wage ordinance therefore employees on Steps one and two will earn less, \$12.08 per hour and \$12.95 per hour respectively, than the City's 2018 Living Wage of \$13.24 per hour.

Mr. Miller reviewed the following significant unchanged terms:

- District provided health insurance is available at 100% of premium cost made by the employee;
- Perfect attendance incentive.

Mr. Miller stated there are no cost savings associated with this MOA and the net cost of the contract is approximately \$1.77M. BCSD can be reimbursed for 87% of the cost of bus aide salaries and benefits the following year through NYS Transportation Aid depending if the bus aide provides services to pupils with an Individualized Education Plan (“IEP”). This reimbursement mechanism reduces the cost of the MOA to \$1.30M.

Conclusions

- BFSA has reviewed the MOA and determined that the cost estimates are reasonable;
- Budgeted and projected amounts are deemed sufficient to address increased costs;
- A significant amount of the new costs will be reimbursed in the form of NYS Transportation Aid;
- Contingency funds are available if needed.

Director Gallagher exited the meeting at 1:58 P.M.

Secretary Arthur asked what percentage of bus aides are non-residents. BCSD Chief Financial Officer Geoff Pritchard responded all bus aides are residents of the City of Buffalo. The budget includes 430 bus aides and currently approximately 320 positions are filled. First Student provides 50 additional transportation aides. The position is heavily advertised; however, there is a high turnover rate. Interim Vice-Chair Jurasek clarified her understanding that the positions will only be filled by those residing outside of the City under staffing duress.

Mr. Miller continued his presentation stating the transportation aides also provide services for bus runs for charter and parochial schools.

Interim Vice-Chair Jurasek asked what percentage of aide positions are assigned to students with disabilities. Mr. Pritchard responded approximately 50% are required depending on students’ IEPs.

Ms. Estrich made a motion to approve the MOA as submitted. Secretary Arthur seconded the motion.

The Board voted 5 to 0 to approve.

Adjournment

Interim Vice Chair asked if there were additional comments to be considered by the Board. Hearing none, he asked for a motion to adjourn.

Ms. Estrich offered a motion to adjourn.

Secretary Arthur seconded the motion.

The Board voted 5-0 to adjourn the meeting.

Meeting adjourned at 2:05 P.M.